

BUREAU OF AUTOMOTIVE REPAIR

INITIAL STATEMENT OF REASONS

HEARING DATES:

November 16 and 18, 2005

**SUBJECT MATTER OF
PROPOSED REGULATIONS:**

Official Automotive Repair Dealer's Sign.

SECTIONS AFFECTED:

§§ 3351.3 and 3351.4 of Title 16, Division 33,
Chapter 1, Article 6, of the California Code of
Regulations.

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

This regulatory proposal is designed to revise and update the official sign that registered automotive repair dealers are required to display in their places of business. These changes are primarily intended to comply with the amendment of Business and Professions Code section 9884.17 contained in Chapter 572, Statutes of 2004 (SB 1542, Figueroa). That amendment requires the bureau to design and approve a sign to include the bureau's Web site address in addition to previously specified consumer information. Secondly, this proposal is intended to correct some errors in the information conveyed by the current sign.

In addition, this proposal will clarify the applicability of this requirement with respect to transactions with automotive repair dealers that may occur at a location other than the dealer's place of business, or with dealers that do not maintain a repair facility at a fixed location, but go to the customer's location to provide services and/or repairs. In these cases, it is intended that customers be assured access to the same information that they would have if they took their vehicle to a fixed location repair facility.

The proposed action will make the following changes to existing regulation:

1. Section 3351.3 will be amended to clarify that the provisions of this section are applicable to all automotive repair dealers, including automotive repair dealers that either occasionally or exclusively transact business at other than a fixed location. The amendments include a requirement, in addition to the display of the sign in an automotive repair dealer's facility, of providing a copy of the sign to a customer, as specified.

Other minor technical, grammatical and conforming changes are also proposed.

2. Section 3351.4 will be amended to change the content of the official automotive repair dealer sign by the addition of Figure 3. In addition, Figure 4 will also be added in order to conform the dimensions of the sign to the revised text layout. The most significant content change is the addition of the Bureau's Web site address to the text of the sign.

Another change involves modification of the five items listed and categorized as customer entitlements under the Automotive Repair Act (Act). In fact, only the first three items are entitlements under the Act. The last two items are suggestions as to how a customer should pursue questions about their rights and the work performed by the automotive repair dealer.

The material, color, paint, print and other requirements, other than text content and layout dimensions, will remain unchanged.

These amendments will set a transition date for the replacement of all existing signs of June 30, 2006. However, provision is included that will allow automotive repair dealers that are currently registered on the transition date, to comply without replacing their previously complying signs. Those dealers, should they choose to, may comply by displaying a supplementary sign, containing the Bureau's Web site address, immediately below their previously displayed sign.

Other minor technical, grammatical and conforming changes are also proposed.

FACTUAL BASIS:

The Bureau of Automotive Repair (Bureau) was established within the California Department of Consumer Affairs in 1972. The Bureau was created by Chapter 1578, Statutes of 1971 (SB 51, Beilenson), which mandated a statewide consumer protection program for automotive repair. Recently, Chapter 107, Statutes of 2002 (AB 269, Correa) added Section 9880.3 to the Automotive Repair Act (Bus. & Profs. Code, Div 3, Ch. 20.3, § 9880, et seq.), reinforcing and declaring that protection of the public shall be the highest priority of the Bureau in exercising its licensing, regulatory, and disciplinary functions.

Through its statewide offices, the Bureau conducts consumer protection services related to automotive repair. Bureau representatives register and regulate automotive repair dealers, accept and mediate auto repair complaints from the public, investigate violations of the Automotive Repair Act and, when appropriate, refer cases to law enforcement authorities for prosecution.

The display of the official automotive repair dealer sign is but one way of informing the public of their basic rights in transactions with automotive repair dealers, but it is an important and effective one. In addition, it is a simple and effective means of informing the public of the Bureau's existence and of how to contact it. Displaying the sign in the automotive repair facility, in a manner conspicuous to customers, places this information before them at a time and in a place, when the consumer is most receptive to and possibly in most need of, that

information.

Government has begun to recognize, more and more, the advantages of “E-Commerce” in today’s technological society. Many consumers today either have or have access to, computers and e-mail. Many automotive repair dealers also have the same technology available. It is becoming more and more common today for consumers to communicate electronically. For several years, the Bureau has maintained its own Web site filled with important consumer information. This Web site now includes several interactive forms, including a consumer complaint form that permits consumers to file complaints electronically. In order to further assist consumers in communicating with the Bureau, it is important to publicize the various means available to contact it. One way is the display of the automotive repair dealer sign and the inclusion of the Bureau’s Web site address in that sign. The recent amendment of Business and Professions Code section 9884.17 (Chapter 572, Statutes of 2004 (SB 1542, Figueroa)) now mandates the inclusion of the bureau’s Web site address in the sign which necessitates its redesign.

Some automotive repair dealers offer, as a convenience to their customers, pick up and delivery service. In those instances where the customer’s vehicle is picked up, the customer may never go to the dealer’s facility and, therefore, has no opportunity to view a posted sign. There are also a number of automotive repair dealers that do not maintain a fixed location repair facility, but go to the customer’s location (i.e., home or office) to provide on-site service and repairs. In those instances there is no facility, per se, in which to display the sign. The sign could and currently should, be displayed on the automotive repair dealer’s vehicle, but the customer may never actually see or come into contact with that vehicle. Therefore, in all of the foregoing situations it is important that the customer be provided with a copy of the sign in order to be fully and properly informed of his or her rights and the options for resolving conflicts.

Underlying Data:

Chapter 572, Statutes of 2004 (SB 1542, Figueroa)

2003 Sign Vendor Survey Results

2005 Sign Vendor Survey Results

Business Impact:

These regulations will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/ testimony:

1. Each automotive repair dealer is required to display only one official sign. In a 2003 statewide telephone survey of 37 sign vendors conducted by Bureau staff, the average cost of a replacement sign was found to be \$37.80. In a subsequent 2005 survey of 39 sign vendors, the average cost of a new sign was determined to be \$33.10.

2. Automotive repair dealers that are currently registered on the transition date for replacement of the sign will have the option of displaying a supplemental sign immediately below their previously compliant sign. Based on the information obtained in the two surveys (2003 and 2005) it is estimated that the average cost of a supplemental sign will be no more than \$10.00.
3. Automotive repair dealers will also be required to give a copy of the sign to each customer with whom they conduct business off-site. The sign may be reproduced from Figure 3, which can be obtained from the Bureau-published Laws and Regulations booklet or printed from the CD-ROM supplied with that publication. The required identifying information for the dealer may be added with an appropriate rubber stamp before reproduction. The initial cost to an automotive repair dealer that conducts an exclusively *mobile* business, including a rubber stamp and a year's supply of copies of the sign, is estimated to be approximately \$139.80. The ongoing cost after the first year is estimated to be approximately \$124.80.

Description of alternatives which would lessen any significant adverse impact on business:

None.

Specific Technologies or Equipment:

These regulations do not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative 1: The Bureau considered, as an alternative to replacing existing signs, the option of displaying a supplementary sign, containing the Bureau's Web site address, immediately below the existing sign. The form, content and specifications of the supplementary sign would be similar to the existing sign.

This alternative was accepted and incorporated into the proposed action. The average cost of the proposed supplementary sign is estimated to be no more than \$10.00

Alternative 2: The Bureau considered, as an alternative to replacing existing signs, the option of covering the portion of the existing sign below the first three numbered entitlements with an attachment that would include all of the sign content changes included in the proposed action. The form, content and specifications of the attachment would be

similar to the existing sign and the attachment would have to be permanently affixed by means of a permanent adhesive backing or pop rivets.

This alternative was rejected because in the 2005 survey of sign vendors, it was determined that the cost of the proposed attachment would be very nearly as much as the cost of outright replacement of the sign. The average cost of the proposed attachment, based on survey results, would be \$31.30 – only \$1.80 less than the average cost of a new sign. In addition, there could be inconsistencies between old signs produced by one vendor and the new attachment produced by another vendor. It might be difficult to match the two to maintain a clean, consistent and official appearance. It would also involve more effort to attach something to an existing than it would to simply take one down and put another one up.

Alternative 3: The Bureau also considered, as an alternative to replacing existing signs, the option of affixing a sticker with the Bureau's Web site address, similar to a bumper sticker, to the bottom of the existing sign immediately below the words "MONDAY THRU FRIDAY."

This alternative was rejected because there isn't sufficient space to accommodate a sticker of a size sufficient to present the Web site address in a print size large enough to match the print of the other information and to be read from any distance. Furthermore, while this alternative would accomplish the goal of adding the Bureau's Web site address to the sign, it does not address any of the necessary corrective changes to the text of the current sign.